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like proceedings *in personam*, but not *in rem*, shall apply to cases of domestic ships for supplies, repairs, or other necessities."

The consequence is, that in cases of domestic ships, for supplies furnished at a home port, a lien created by a state law is one which a court of admiralty can neither recognise nor enforce.

Hence it follows, that in this case, The Hoboken Coal Company have no standing in court, have no right to intervene, either for their own interest or to contest the claims of the libellants, and that the testimony taken on their behalf must be stricken out. Let judgment be entered in favor of the libellants, with costs as against the intervenors.

Supreme Court of Tennessee.

R. A. GRAHAM v. MERRILL ET AL.

When the United States forces, during the late war, acquired firm occupation of part of an insurrectionary state, the citizens of that part so occupied were restored to their relations as citizens of the United States, and contracts between them and other citizens became valid.

The Act of July 13th 1861, and the Proclamation of the President of August 16th 1861, authorized, 1. Unrestricted commercial intercourse between the citizens of loyal states and of those parts of insurgent states in occupation of the Federal forces; and 2. Intercourse between citizens of the loyal and insurgent states, subject to the license of the President and the regulations prescribed by the Secretary of the Treasury; and the President's order of February 28th 1862 was a general license to such intercourse. But by the President's Proclamation of March 31st 1863, the distinction was abolished, and all intercourse between the citizens of loyal and insurgent states was made subject to license by the President and the regulations of the Secretary of the Treasury.

It was not necessary to the lawfulness of such intercourse that the party engaging in it should have a special license to himself by name under the President's own sign manual. The President's power to license might be delegated or might be exercised by a general proclamation, such as those of February 28th 1862 and March 31st 1863.

APPEAL from decree of the Chancellor overruling demurrer to complaint.

On May 24th 1864, Graham, a citizen of New York, on the one side, and Merrill and Cliffe, citizens of Williamson county, Tennessee, on the other, entered into articles of partnership to

engage in the business of buying and selling cotton. The place where the partners contemplated and agreed to buy cotton, was in that portion of the state of Tennessee within the military lines of and held in firm occupation by the national army. Cotton so bought, the articles stipulated, should be sent to and sold in the city of New York. At the time of making the contract, Graham had a license or permit from "the proper officer of the Government of the United States" to engage in the contemplated trade, and so informed Merrill and Cliffe. It was contemplated and agreed that the trade should be carried on "in strict conformity with the laws and regulations of the United States, regulating commercial intercourse" between the loyal and insurrectionary states. Graham furnished Merrill and Cliffe with large sums of money, and they bought and shipped to him much cotton, the proceeds of sales of which fell largely short of the money furnished.

The articles stipulated that each party was to have one-half the net profits, and to bear one-half the losses.

This was a bill for an account and contribution.

H. G. SMITH, J.—At the time of the making of the contract, the enemy relation did not subsist between the parties; and, therefore, they had the capacity to contract together, and their contract is not void by reason of enemy relation.

The national army had firm occupation of the country of the residence of Merrill and Cliffe. Such occupation established the dominion and government of the United States over that country, and restored the inhabitants to the relation of citizens of the United States. The previous enemy relation between the parties to the contract was thus ended, and their incapacity to contract with each other, by reason of their previous enemy relation, was also ended: *The Venice*, 2 Wall. 277; *The Ouachita Cotton*, 6 Id. 531.

It is another question, whether the subject-matter of the contract was lawful; a contract for commercial intercourse between a loyal state and a part of an insurrectionary state. If such trade was unlawful the contract was illegal and void. Generally, commercial intercourse between the loyal and disloyal states during the war of the Rebellion was unlawful. It was so made by the Act of Congress of July 13th 1861 (12 St. at Large 251),

and by the several proclamations of the President in conformity with the act, and also probably by the laws of war. But though generally prohibited as to all the insurrectionary states, exceptions were authorized by the Act of Congress and the proclamations of the President. Under the proclamations of August 16th 1861 (12 Statutes at Large 1262), unrestricted trade was authorized between the loyal states and such parts of the insurrectionary states as "from time to time should be occupied and controlled by the national forces engaged in the dispersion of the insurgents." Trade, also, was authorized between the loyal states and the disloyal states, by virtue of license granted by the President, and through and under regulations and restrictions prescribed by the Secretary of the Treasury and approved by the President. Such license was granted by the President, by order of date February 28th 1862, which recites: "Considering that the existing circumstances of the country allow a partial restoration of commercial intercourse between the inhabitants of those parts of the United States heretofore declared to be in insurrection, and the citizens of the loyal states of the Union, and exercising the authority and discretion confided to me by the Act of Congress approved July 13th 1861, entitled 'An Act to provide for the collection of duties on imports and for other purposes,' I do hereby license and permit such commercial intercourse, in all cases within the rules and regulations which have been or may be prescribed by the Secretary of the Treasury for the conducting and carrying on of the same, on the inland waters and ways of the United States."

Intercourse thus authorized and regulated, continued until March 31st 1863. On that day the President issued a further proclamation in regard to commercial intercourse between the loyal and disloyal states. The change made by that proclamation was to prohibit the unrestricted trade between the loyal states and the parts of disloyal states held and occupied by the national forces, which was authorized by the original proclamation. Such parts of the disloyal states were placed on the same footing as to trade as the residue and unoccupied parts of the disloyal states. The whole insurrectionary country was placed in the same condition, as to commercial intercourse with the loyal states. All were prohibited, except under license granted by the President "through the Secretary of the Treasury," and regular

tions prescribed by the Secretary of the Treasury and approved by the President. But trade, in conformity with such license and regulations, was lawful in whatsoever part of the insurrectionary country it was carried on: *The Venice*, 2 Wall. 278.

The contract between the parties here was made after the proclamation of the President of March 31st 1863, and is therefore dependent, as to the validity of the trade agreed on, upon the condition of the law as it then was, by virtue of the Act of Congress and the proclamation last mentioned. The fact that the trade contemplated was between a loyal state and part of an insurrectionary state in the firm occupation of the national forces, does not seem to be of vital, if even of material consequence. The military occupation of the country, wherein the cotton was to be bought, does not appear to give the trade any lawful quality, other than it would have in a region of country not so occupied. It is thus apparent that there was a trade which might be lawfully carried on between inhabitants of the insurrectionary country and residents of the loyal states. Such trade the parties in this case agreed to engage in. It follows that their contract to engage in such trade was lawful.

It was not necessary to the legality of the trade that the party engaging in it should have a special license to himself by name, from the President himself, under his sign manual. A fair construction of the Act of Congress of July 13th 1861, does not exact that the trade which the President, under the regulations of the Secretary of the Treasury, was authorized to license, should be carried on by special and individual licenses, under his sign manual. And such was not the practice at the time. Nor was it the construction put upon the act at the time by the President and Secretary of the Treasury, who were charged by the act with the duty and authority to allow trade, that the license must be issued by the President, directly to the individual licensed, or by authority of the President granted by himself in each particular case, upon his discretion exercised in each particular case, as to the individual to whom the grant of license was to be made. The act authorizes the President in his discretion to license and allow the trade. Nothing in it exacts, as of necessity, that the discretion was not in any manner or to any extent delegable. On the contrary, the fact that the trade licensed was to be conducted in pursuance of regulations made by the Secretary of the Treas-

sury, indicates that it was not intended to restrict the trade to individual instances designated in each particular case by the President himself, but to allow a trade in some measure of more general character, in conformity with general regulations prescribed for its government. That was the construction put upon the act by the President and Secretary. And in conformity with such construction, persons embarked in the trade, and, indeed, whole communities, when brought within the dominion of the sovereign government by the military forces. A construction so made at the time, and by the chief functionaries charged with the execution of the Act of Congress, ought not now to be departed from, unless for very cogent reasons. Such reasons are not apparent to this court.

The President repeatedly exercised his discretion and granted license to trade. This was done by the order of February 28th 1862, already recited. It was further done by his order of March 31st 1863, accompanying and approving the regulations of that date, issued by the Secretary of the Treasury. The order or license recites "that it appears that a partial restoration of intercourse between the inhabitants of sundry places and sections heretofore declared in insurrection, and the citizens of the rest of the United States, will favorably affect the public interest; therefore the President, exercising the discretion and authority confided to him by the Act of July 13th 1861, hereby doth license and permit such commercial intercourse between the citizens of the loyal states and the inhabitants of the insurrectionary states, in the cases and under the restrictions described and expressed by the regulations of the Secretary of the Treasury, of even date with the order," to wit, March 31st 1863.

A license to trade with the enemy in time of war is said to be *stricti juris*. By this is meant, in its ordinary application, that the license granted to the person is to be construed strictly, as to the extent of the power granted to him by it; in respect to the manner in which he may exercise it; the objects in which he may trade; the person with whom he may deal; the times and circumstances in which he may exercise the power; the good faith on his part in his use of it; the inability to transfer it to others or enable others to trade under it, and many other circumstances touching the construction and exercise of the authority granted by the license. But we are not aware of any principle or autho-

rity which applies the like doctrine to the power of the sovereign or commander-in-chief of the army and navy, or to other public functionary, authorized by the public law or statutory law, to issue or grant license to trade with the enemy in time of war. In respect to the authority granted to the public functionary to authorize such trade, the ordinary principles of construction are properly applicable. And when the authorized officer of the government has exercised the power, and the citizens of the government have largely acted under the authority, confiding in the validity of its exercise, no good reason is obvious, but on the contrary, much reason is manifest why the citizens so confiding shall not have illegality imputed to their transactions under it.

It is not to be doubted that trade authorized and conducted under the license of the President, so granted, and in conformity with the regulations of the Secretary of the Treasury, is not to be deemed illegal.

Decree affirmed.

Supreme Court of North Carolina.

KANE AND WIFE v. McCARTHY AND WIFE ET AL.

Any woman, being a free white person, and an alien friend, married after the approval of the Act of February 10th 1855, to a man who was, at the time of such marriage, a naturalized citizen of the United States, becomes, by such marriage, *ipso facto*, herself a citizen of the United States, and capable of inheriting real estate, although she resided in a foreign country at the time of her said marriage, and has continued her actual residence there ever since.

And any alien woman answering the above description, and married before the approval of the said act, to an alien husband, who has been subsequently naturalized, becomes by his naturalization, *ipso facto*, herself a citizen of the United States, and capable of inheriting real estate.

It is the status of being married to—being the wife of—a citizen, which makes the alien woman a citizen of the United States.

THIS was an action for the partition of certain real estate in the city of Raleigh.

The facts of the case were as follows: John Kane, who was a native of Ireland, but a naturalized citizen of the United States, resident in the city of Raleigh, being seised of certain real estate in said city, died intestate May 20th 1863. The decedent left no lineal descendants. At the date of his decease all his collateral